

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

ANTHONY DUANE MILLS, #207420

PLAINTIFF

VS.

CIVIL ACTION NO. 5:18-cv-15 (DCB) (MTP)

SHERIFF TRAVIS PATTEN, ET AL.

DEFENDANTS

MEMORANDUM OPINION AND ORDER

This cause is before the Court on a Motion to Dismiss filed by defendant Timothy Blalock **(docket entry 33)**, and on the Report and Recommendation of Magistrate Judge Michael T. Parker **(docket entry 53)**.

On January 24, 2019, the parties appeared and participated in an omnibus hearing before Magistrate Judge Parker. Plaintiff Anthony Duane Mills appeared pro se; Honorable Brennan Breeland appeared on behalf of Defendants Travis Patten, Lee Best, Delayne Bush, Walter Mingee, and Dustin Smith; and Honorable Timothy Blalock appeared on his own behalf. Magistrate Judge Parker scheduled the hearing for the combined purposes of conducting a Spears¹ hearing, scheduling/case management hearing, and discovery conference. The purpose in conducting the hearing was to ensure the just, speedy, and inexpensive determination of this pro se prisoner litigation.

After considering the issues in this case, Magistrate Judge Parker found the following:

¹ Spears v. McCotter, 766 F.2d 179 (5th Cir. 1985).

During the Spears hearing, Plaintiff stated that he no longer wishes to pursue his claims against Timothy Blalock. The Court explained that the dismissal of Blalock would be with prejudice. Plaintiff testified that he understood the consequences of such a dismissal. Plaintiff also testified that he is not under any undue influence or pressure to dismiss his case and is doing so voluntarily.

(Docket entry 53, p.1). Thus, Magistrate Judge Parker recommends that:

1. Timothy Blalock be dismissed with prejudice,
2. the Motion to Dismiss [33] be denied as moot, and
3. this case continue as to the remaining Defendants.

Id.

All parties, including the Plaintiff, were given fourteen days after being served a copy of the Report and Recommendation to serve and file written objections to Magistrate Judge Parker's findings. No objections were filed.

The Court therefore finds that the parties are in agreement that dismissal of Defendant Timothy Blalock with prejudice is warranted.

Accordingly,

IT IS HEREBY ORDERED that the Report and Recommendation of Magistrate Judge Michael T. Parker (**docket entry 53**) is ADOPTED as the findings and conclusions of the Court;

FURTHER ORDERED that Timothy Blalock is DISMISSED from this action WITH PREJUDICE;

FURTHER ORDERED that the Motion to Dismiss filed by Defendant Timothy Blalock (**docket entry 33**) is DENIED AS MOOT;

FURTHER ORDERED that this case shall continue as to the remaining Defendants.

SO ORDERED, this the 4th day of March, 2019.

David Bramlette

UNITED STATES DISTRICT JUDGE